REMARKS

Claims 1-30 are currently pending in the subject application, and claims 1-19, 29 and 30 are under consideration. A version of all pending claims is found on page 2-5. Claims 20-28 have been withdrawn; claims 1, 8-10, 12-13, 15-16, 18-19 and 29 have been amended herein to further emphasize various aspects of the invention. Favorable consideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-19 and 29-30 Under 35 U.S.C. §102(b)

Claims 1-19 and 29-30 stand rejected under 35 U.S.C. §102(b) as being anticipated by Brown *et al.* (U.S. App. 2002/007201). It is submitted that this rejection should be withdrawn for at least the following reason. It is respectfully submitted that this rejection should be withdrawn for at least the following reason. Brown *et al.* fails to disclose teach or suggest each and every element of the subject claim.

> A single prior art reference anticipates a patent claim only if it expressly or inherently describes each and every limitation set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The subject claimed invention relates to a system and method for directly measuring critical dimensions *in-situ* as they evolve during a development process so that a development endpoint can be determined and the development process terminated. Independent claims 1 and 29 recite: *light reflected from the one or more gratings*. In particular, applicants' claimed invention uses a development monitoring system/means that utilizes reflected light from *one or more gratings* to determine whether a determined endpoint has been achieved. Brown *et al.* does not disclose or suggest such a facility.

Brown *et al.* discloses a method and system for lithography process control, but does not teach or suggest using a development monitoring system to determine the development process endpoint

through the use of light reflected through *one or more gratings*. Nowhere in Brown *et al.* is utilization of a grating disclosed to determine an endpoint, thereby terminating the development process. It is therefore apparent that Brown *et al.*, fails to teach or suggest each and every element of applicants' claimed invention and thus does not anticipate the subject claimed invention. Accordingly, it is requested that rejection of independent claims 1 and 29, together with claims that depend therefrom, should be withdrawn.

II. Rejection of Claims 1-19 and 29 Under 35 U.S.C. §103(a)

Claims 1-19 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lewis *et al.* (U.S. Patent No. 5,308,447) alone or in view of Litvak (U.S. Patent No. 6,426,232). It is respectfully submitted that this rejection should be withdrawn for at least the following reason. Neither Lewis *et al.* nor Litvak teaches or suggests applicants' claimed invention.

> To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations. See* MPEP §706.02(j). The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must be found in the prior art and not based on the Applicant's disclosure. See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). An examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done. *Ex parte Levengod*, 28 USPQ2d 1300 (P.T.O.B.A.&I. 1993).

As discussed *supra*, the subject invention relates to a novel system and method that directly measures critical dimensions *in-situ* as they evolve during a development process so that a development endpoint can be determined and the development process terminated. In particular, applicants' claimed invention accomplishes the measurement of critical dimensions through the use

of light reflected through *one or more gratings*. Neither Lewis *et al.*, nor Litvak disclose the use of light reflected through gratings to ascertain the measurement of a development endpoint, and thus effectuate the termination of the development process. It is apparent therefore, that neither Lewis *et al.*, nor Litvak *teach or suggest all the claim limitations* recited in applicants' claimed invention, and further it is submitted, any teaching or suggestion is based solely on applicants' disclosure. Thus, neither Lewis *et al.* nor Litvak make obvious that which applicants' have disclosed.

In view of at least the foregoing it is respectfully requested that the rejection with respect to independent claims 1 (and associated dependent claims) and 29 be withdrawn.

CONCLUSION

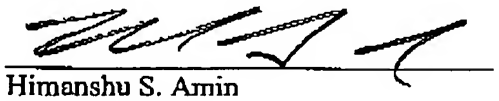
The present application is believed to be in condition for allowance in view of the above amendments and comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

AMIN & TUROCY, LLP



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